IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 24394 of 2004

Between:

1 Mr.P.Ismail, S/o.Mr.P.Abdul Rawoof, Major,

H.NO.15/668, C.B.Road, Tadpatri, Anantapur District.
2 Mr.T.Narayana Swamy, S/o.Shri T.pullaiah, Major,
R/o.P.M.Kondapuram, Yellanuru Mandal, Tadpatri

Taluq, Anantapur District.

..... PETITIONERS

AND

1 Government of Andhra Pradesh, rep.by its Secretary,

Transport Department, Secretariat Buildings, Saifabad,

Hyderabad.
2 Motor Vehicle Inspector, Anantapur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court

may be pleased to pass an order or orders or direction or writ more particularly one in the nature of writ of Mandamus declaring the action of the 2nd respondent in seizing the Mahendra & Mahendra Maxi-Cab vehicle bearing No.AP 02 U 5368 and thereby demanding to pay Rs.48,600 towards tax and penalty for three quarters as illegal, unreasonable and irrational and consequently set aside the same and pass such other order or orders.

Counsel for the Petitioner:M/SC.KODANDA RAM

Counsel for the Respondent No.: GP FOR TRANSPORT

The Court made the following :

O R D E R (Per MHSA,J)

Having heard the learned counsel for the petitioner and oral submissions made on behalf of the 2nd respondent by learned Government Pleader for Transport, we are inclined to dispose of the instant writ petition with certain appropriate directions.

2 . Petitioner has questioned the action of the 2nd respondent in seizing the maxi cab vehicle bearing No.AP 02 U 5368 and a prayer has also been made for release of the said vehicle.

3 . We find that the vehicle was detained pursuant to the vehicle check report No.414066 dated 14.12.2004. It appears from the said report that the petitioner did not produce registration certificate book, driving licence, insurance certificate, fitness certificate and proof of payment of tax.

4 . It cannot be disputed that power to seize and detain vehicle in case of non-payment of tax is conferred on the authority. Under Rule 448(A) of A.P. Motor Vehicle Rules 1989, procedure of seizing and detaining motor vehicles is prescribed and under Rule 448(B), procedure for release of the vehicle seized and detailed, is provided for.

5 . We find that the petitioner has approached this Court directly without making an application for release of the vehicle before the Secretary, Regional Transport Authority, Anantapur. In such view of the matter, instant writ petition is disposed of with directions as under:

“ If the petitioner makes appropriate application for release of the vehicle seized and detained pursuant to the vehicle check report referred to supra, the Secretary, Regional Transport Authority, Anantapur shall consider such application in accordance with law and dispose of the same within a period of three days from date of making such application.”

6. However, all questions are left open and the petitioner is at liberty to raise all contentions of law and fact as he may be advised in the

proceedings pending before the respondent – authorities and/or in the application for release of the vehicle seized.

7. No order as to costs.

M.H.S.ANSARI, J

V.ESHWARAIAH, J

Note: CC on priority basis.

To

1 Government of Andhra Pradesh, rep.by its Secretary,

Transport Department, Secretariat Buildings, Saifabad,

Hyderabad.

2 Motor Vehicle Inspector, Anantapur.

3. Two C.Cs. for G.P. for Transport, High Court of A.P.

Buildings, Hyderabad (O.U.T.).

4. Two C.D. copies.